

**STATEMENT OF PROCEEDINGS FOR THE SPECIAL MEETING OF THE
CITY OF MONTEBELLO OVERSIGHT BOARD**

**CITY OF MONTEBELLO
CITY COUNCIL CHAMBERS
1600 WEST BEVERLY BOULEVARD
MONTEBELLO, CALIFORNIA 90640**

Monday, January 7, 2013

8:15 a.m.

AUDIO LINK FOR THE ENTIRE MEETING. (13-0503)

Attachments: [Audio](#)

I. CALL TO ORDER

Chair Bruckner called the meeting to order at 8:22 a.m.

II. ROLL CALL

Ivonne Umana, Oversight Board Staff, called the roll:

Present: Board Members Yolanda Duarte, Dolores Gonzalez-Hayes,
Cheryl A. Plotkin, Vice Chair Ernesto Hidalgo and
Chair Richard Bruckner

Absent: Board Member Edgar Cisneros

Vacancies: Community College Appointee

III. CLOSED SESSION

1. Oversight Board Counsel shall provide a briefing on the items listed for Closed Session as follows:

CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

(Subdivision (a), of Government Code Section 54956.9)

Sevacherian, et al. v. Community Redevelopment Agency of the City of
Montebello, Los Angeles County Superior Court Case No. BC437787) (12-2793)

**By Common Consent, there being no objection (Board Members Cisneros
and Duarte being absent and Community College Appointee being vacant),
the Oversight Board entered into Closed Session at 8:24 a.m.**

Closed Session adjourned and Open Session reconvened at 8:39 a.m. with the following Board Members present: Yolanda Duarte, Dolores Gonzalez-Hayes, Cheryl A. Plotkin, Vice Chair Ernesto Hidalgo, and Chair Richard Bruckner.

Chair Bruckner reported that there was no reportable action taken.

IV. STAFF COMMUNICATIONS

This time is set aside for Successor Agency staff to update the Board on important items initiated by staff or previously requested by the Oversight Board. (13-0279)

Michael Huntley, Director of Planning and Community Development, provided a verbal report on the correspondence interaction between the Successor Agency (SA) and the Department of Finance (DOF), subsequent to the December 19, 2012 Oversight Board meeting. The DOF made decisions affecting incoming revenue to the SA based on the determination that the DOF did not agree with the inclusion of the 2000 Certificate of Participation (COP) as a recognized obligation. The Successor Agency's legal counsel corresponded with the DOF, and subsequently in a reevaluation, they determined that the 2000 COP was a recognized obligation, and a revised letter dated December 27, 2012 was received acknowledging the change.

Mr. Huntley added that staff had additional concerns regarding the anticipated disbursement of funds on January 2, 2013, and prepared a letter to the DOF concerning ratification of the Recognized Obligations Payment Schedule for the period of January 1, 2013 through June 30, 2013 payments. The letter served as notice that the SA disputed the \$3.3 million reduction of incoming revenue to the SA. Subsequently, SA Legal Counsel and SA staff communicated with the DOF and the County Auditor-Controller, and the DOF reversed its determination, adjusting the proposed reduction to zero. Mr. Huntley stated that the SA did receive funds in the originally-requested amount of \$5.4 million, which will cover all deficits.

By Common Consent, there being no objection (Board Member Cisneros being absent and Community College Appointee being vacant), the Oversight Board accepted Mr. Huntley's report.

Attachments: [Correspondence Presented to the Board on 12-19-12](#)
 [Correspondence from DOF 01-02-13](#)
 [City of Montebello Correspondence 12-31-12](#)

V. ADMINISTRATIVE MATTERS

- 2. Recommendation:** Approve the minutes for December 11, 2012. (13-0194)

On motion of Board Member Plotkin, seconded by Chair Hidalgo, duly carried by the following vote, the Oversight Board approved the December 11, 2012 Minutes:

Ayes: 5 - Board Members Duarte, Gonzalez-Hayes, Plotkin, Vice Chair Hidalgo and Chair Bruckner

Absent: 1 - Board Member Cisneros

Vacancies: 1 - Community College Appointee

Attachments: December 11, 2012 Minutes

- 3. Recommendation:** Approve the minutes for December 19, 2012. (13-0196)

Chair Bruckner noted that a sentence on page 5 of the minutes should read “Chair Bruckner also requested ~~directed~~ the Successor Agency...”

On motion of Board Member Plotkin, seconded by Board Member Hidalgo, duly carried by the following vote, the Oversight Board approved as amended the December 19, 2012 Minutes:

Ayes: 5 - Board Members Duarte, Gonzalez-Hayes, Plotkin, Vice Chair Hidalgo and Chair Bruckner

Absent: 1 - Board Member Cisneros

Vacancies: 1 - Board Member Appointee

Attachments: December 19, 2012

VI. RECOMMENDATIONS

4. Recommendation: Close the public comment session for public input pertaining to the All Funds Due Diligence Review, and adopt a resolution approving the All Funds Due Diligence Review report as prepared by an independent auditor, pursuant to Health and Safety Code Section 34179.5. (13-0200)

Ana Arriola, member of the public, addressed the Oversight Board and questioned how the outstanding loans would be resolved and also expressed concern about the effect on taxpayers of scheduled payments by the Successor Agency.

Michael Huntley, Director of Planning and Community Development, responded to Ms. Arriola's questions and described the Recognized Obligations Payment Schedule (ROPS) process and stated that the ROPS schedule will not affect existing taxpayers. He noted that all ROPS payments will be made using existing property tax revenues.

Chair Bruckner requested that the Successor Agency to address the relationship between the City and former Redevelopment Agency (RDA), specifically, the loan of \$13 million.

Christopher Cardinale, Successor Agency Legal Counsel, provided an overview of the Due Diligence Review (DDR). Mr. Cardinale explained that \$11.1 million was referenced on the DDR as having been transferred from the RDA to the City between January 1, 2011 and January 12, 2012. The City experienced a cash-flow deficiency so they marketed and sold a tax revenue anticipation note purchased by investment agencies. Pursuant to that agreement, the City was authorized to borrow \$19 million over the term of the loan. The total outstanding amount is about \$13 million, which was subsequently repaid to the RDA by the City via a repayment agreement memorialized under the 2000 Certificate of Participation (COP), which has now been recognized as an enforceable obligation by the Department of Finance.

Mr. Cardinale added that the repayment term extends through 2025, and the repayment agreement represents a present payment of future agency obligations under the 2000 reimbursement agreement.

Chair Bruckner inquired whether the agreement was intended to reimburse staff time and resource costs.

Francesca Tucker-Schuyler, City Administrator/Director of Finance, explained that the COP was originally issued in 1993 in order to finance the buildings of City Hall, police station, and fire station, which resided in a Redevelopment Area. The reimbursement agreement was established pursuant to the terms of the 1993 COP, and indicates that the former RDA is responsible for payment on bond and debt issues. In 2000, the agreement was refinanced but the original reimbursement agreement dates back to 1993.

Chair Bruckner inquired whether the law governing the COP had changed at any point. Mark Huebsch, Oversight Board Legal Counsel, explained that the law had changed in 1994 with the passing of AB 1290, after the original financing had taken place.

Chair Bruckner noted that in 2011 there was a settlement between the RDA and the City, and inquired whether the settlement had paid the entirety of the debt owed by the City. Mr. Cardinale responded that in 2011, there was a loan agreement between the RDA and the City, and the 2000 COP was paid in satisfaction of the debt borrowed by the City, with the exception of \$3.3 million, a cash transfer from the City to the Agency; but otherwise all amounts borrowed by the City have been repaid.

Board Member Hidalgo inquired whether any redevelopment law permitted or disallowed prepayment of the loan. Mr. Cardinale stated that Fulbright & Jaworsky, retained as bond counsel, had issued an opinion letter evaluating the transaction and determined that under redevelopment law as it then existed, the transaction was authorized by state law.

Chair Bruckner inquired about payments due to the SA, and whether they were lease payments owed to the Successor Agency related to the Sevacherian case, or if there is a set-aside for future legal costs. Mr. Huntley referenced the Sevacherian case and explained that there are ongoing lease payments related to the case, and added that the SA is involved in pending legal matters. The SA must wait until a determination is made before using the funds.

Chair Bruckner introduced Cecilia V. Estolano, ELP Advisors LLC, and consultant to the County of Los Angeles Chief Executive Office, to discuss the COP issue. Ms. Estolano addressed the Oversight Board and the Successor Agency for clarification pertaining to the COP prepayment agreement. Ms. Estolano informed the Oversight Board that a filing had been received from the County of Los Angeles County Counsel on July 21, 2011, which the City of Montebello (City) asserted that the transfer issue is

a loan. The city repaid the amount by accrediting a pre-payment of the COP in the form of an accelerated payment not allowed by ABx1 26 or AB 1484. The City's contention is that ABx1 26 had not been signed at the time of the pre-payment; therefore, the acceleration was valid.

Mr. Cardinale responded and added that even if ABx1 26 makes it lawful to retroactively wind down transactions, the issue becomes more complex in that there is judgment on record validating this pre-payment agreement and recognizing that the City has satisfied its obligations. To the extent that AB 1484 could unwind the transaction, it would in effect also be unwinding a judicial judgment. Ms. Estolano recommended that an attachment should be included with the DDR explaining reasons why the prepayment agreement is justified and valid.

Mark Huebsch, Oversight Board Legal Counsel, noted that as part of the process of the non-housing DDR consideration and approval, there is a provision for legal comments and submittal of comments; and no findings had been received from the County of Los Angeles County Counsel or from the County of Los Angeles Auditor-Controller.

Mr. Cardinale stated, that from the Successor Agency's perspective, the DDR is complete as presented with no adjustments necessary.

Arnold M. Alvarez-Glasman, City Attorney and Successor Agency Legal Counsel, recommended that once judgment is rendered in the Sevacherian case, and the record is complete, the Successor Agency may transmit that judgment to the DOF for their review of the rationale and judgment of the court.

Mr. Huebsch called attention to the Oversight Board to note that the resolution as presented in Section 3, line 4 has two options for adoption, one is to adopt as submitted, the other is to adopt in the form submitted with additions and deletions and add the verbiage "including a copy of the judgment in the validation action in the proceedings," to the resolution.

On motion of Board Member Duarte, seconded by Board Member Gonzalez-Hayes, duly carried by the following vote, the Oversight Board adopted A Resolution of the City of Montebello Oversight Board Approving the Independent Accountant's Report Re the Due Diligence Review for All Funds and Accounts other than the Low and Moderate Income Housing Fund Conducted Pursuant to Section 34179.5 Taking Into Consideration the Public Comments and County Auditor-Controller's Opinion, if any, All

Pursuant to Sections 34179.5 and 34179.6 of the Dissolution Act, as amended in Section 3, ..."additions and deletions: include a copy of the judgment in the action referred to in the proceedings, taking into consideration the public comments and the Los Angeles County Auditor-Controller's results/opinions, if any...":

Ayes: 5 - Board Members Duarte, Gonzalez-Hayes, Plotkin, Vice Chair Hidalgo and Chair Bruckner

Absent: 1 - Board Member Cisneros

Vacancies: 1 - Community College Appointee

Attachments: [Staff Report](#)
[All Fund Due Diligence Review](#)
[Supporting Documentation](#)
[Resolution](#)

VII. MISCELLANEOUS

5. Matters not on the posted agenda (to be presented and placed on the agenda of a future meeting). (13-0197)

Chair Bruckner and Michael Huntley, Director of Planning and Community Development, discussed future proceedings, which includes the Recognized Obligations Payment Schedule for the period of July 1, 2013 through December 31, 2013 in February 2013, and the Long-Range Property Management Plan.

6. Public Comment. (13-0198)

There were none.

7. Adjournment. (13-0199)

The meeting adjourned at 9:12 a.m. The next scheduled regular meeting is to be held on February 6, 2013 at 8:15 a.m.